



# State of Wisconsin • DEPARTMENT OF REVENUE

2135 RIMROCK RD. • P.O. BOX 8933 • MADISON, WISCONSIN 53708-8933  
PHONE (608) 266-6466 • FAX (608) 266-5718 • <http://www.revenue.wi.gov>

**Jim Doyle**  
Governor

**Roger M. Ervin**  
Secretary of Revenue

## Assembly Rural Affairs Committee Hearing, January 24, 2008

### **ASA 1 to AB 79 – Charter Towns and TIF Powers (Rep. Kerkman)**

#### *Description of Current Law and Proposed Change*

Under current law, if a town meeting authorizes a town board to do so, the town board may exercise certain powers relating to villages. A town board may not create a tax incremental finance district (TID), except under limited circumstances or for limited purposes. A town may create a TID if it has entered into a cooperative boundary agreement with a city or village for full or partial annexation in the future, the city or village has adopted a resolution approving the creation of the TID and the TID would be located entirely within territory that is to be annexed by the city or village. In addition, a town may create a targeted TID for the purpose of specific agricultural, forestry, manufacturing, and recreational projects. A town may also create an environmental remediation TID.

ASA 1 would allow certain towns that are authorized to exercise village powers to declare themselves, by referendum, to be charter towns. Charter towns could be declared only by towns with populations of at least 2,500 that have a town plan commission, a comprehensive land use plan, an official town map, a building code, a subdivision ordinance, a comprehensive zoning ordinance, and a construction site erosion control and storm water management ordinance. A charter town would not be subject to county zoning ordinances unless they were adopted by the town. Charter towns would not be subject to extraterritorial zoning jurisdiction or extraterritorial plat approval jurisdiction of a city or village but would continue to be subject to county zoning of wetlands in shorelands. Counties would be required to recognize a charter town's official map in the same way that it recognizes city and village maps.

ASA 1 would allow all charter towns to exercise the powers of a city to create tax incremental financing districts (TIDs). If a town had already created a TID under the town tax incremental financing (TIF) law, that TID would continue to operate under the town TIF law. If the charter town revoked its charter town status, the town and the Department would continue to administer the TID until it terminated as if the town had not revoked its charter town status.

ASA 1 does not include provisions from the original bill that would allow certain towns to be exempt from city or village annexation and land acquisition powers.

#### *Fairness/Tax Equity*

- ASA 1 would provide the same tax incremental financing tool for economic development in certain higher population towns that is currently available to all cities and villages.

### *Impact on Economic Development*

- ASA 1 would allow certain towns to create TIDs to the same extent that cities may create them, allowing them additional economic development opportunities. Specifically, ASA 1 would expand the types of TIDs that may be created, and extend the expenditure period and maximum life of the TIDs.
- Increased development in towns may come at the expense of development in cities and villages.

### *Administrative Impact/Fiscal Effect*

According to Department of Revenue data, 141 towns have populations over 2,500. These towns could, subject to voter approval, declare themselves charter towns upon enactments of the necessary land use plans, mapping requirements, and ordinances. Most towns are likely to have land use plans, maps, and zoning ordinances under the smart growth law. However, towns that do not already have land use plans and official maps would incur costs for basic land use plans and mapping. Towns that had not already enacted and enforced zoning ordinances would incur personnel costs for the staff required for enforcement. Fees associated with various zoning requirements could defray some costs.

Since the department does not have information to determine the number of charter town TIDs that would be created under the bill or the value of property that would be in the charter town tax incremental financing districts, an estimate of the tax base that would be unavailable to the overlying taxing jurisdictions during the life of the TIDs is not available. As with the creation of other new TIDs, overlying taxing jurisdictions will be given an opportunity to consider the impact of the creation of a charter town TID through the joint review board approval process.

A \$1,000 fee is imposed for each TIF filing with the state. Filing fees may increase by an unknown amount under the bill as charter town TIDs are established. TIF filing fees are deposited to a program revenue appropriation to support the Department's TIF expenses.

The Department anticipates that an additional 1.0 FTE would be required to administer tax incremental financing law under the bill. In addition, the bill would require modification of forms, instructions, training, programming, and annual reports. The Department estimates that additional costs would be \$49,200 annually. Since the number of charter town TIDs that would be created is unknown, the degree to which the Department's additional costs may be funded through increased program revenue from TID filings is unknown. GPR funding will likely be necessary to supplement the program revenue, as indicated in the Department's fiscal estimate.

Current town TIF law provides for payment of TIF-related infrastructure costs and redetermination of the tax incremental base when a town TID is annexed (section 60.85 (17)). ASA 1 does not have a similar provision for charter town TIDs so that towns would likely retain TIF-related debt when an underlying TID is annexed. Such a provision could be added to provide parallel treatment for charter town TIDs, providing that the annexing municipality would pay the town for TIF-related infrastructure costs.

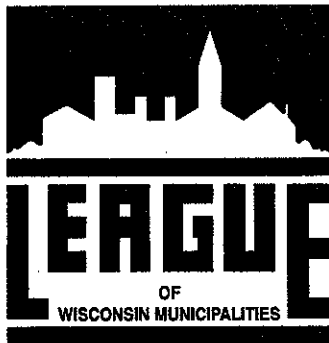
In addition, a similar issue exists under current TIF law. Current law was largely crafted for city and village use and does not contain a general provision for payment of TIF-related costs or the base redetermination upon annexation. Since charter towns would be able to act under general

TIF law (section 66.1105) and towns can already act under the environmental remediation TIF law (section 66.1106), the substitute amendment could amend these sections with provisions similar to those in section 60.85 (17) that would provide for payment of TIF-related costs and base redetermination anytime an annexation includes territory containing a town TIF district.

Adding provisions similar to those in section 60.85 (17) would eliminate the possibility that a TIF that increases in value could be annexed without payment of TIF-related debt by the annexing municipality.

Prepared by: Paul Ziegler  
January 17, 2008

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122 W. Washington Avenue  
Suite 300  
Madison, Wisconsin 53703-2715

608/267-2380  
800/991-5502  
Fax: 608/267-0645

E-mail: [league@lwm-info.org](mailto:league@lwm-info.org)  
[www.lwm-info.org](http://www.lwm-info.org)

To: Assembly Rural Affairs Committee  
From: Curt Witynski, Assistant Director, League of Wisconsin Municipalities  
Date: January 24, 2008  
**Re: Opposition to Charter Towns Legislation**

The League of Wisconsin Municipalities opposes the substitute amendment to AB 79 and any other legislation allowing the creation of hybrid local governments known as charter towns. Under the substitute amendment, charter towns would have the same tax incremental financing powers as cities and villages and would be exempt from municipal extraterritorial zoning and subdivision approval powers.

While this is the least onerous version of the charter towns legislation yet, it nevertheless prohibits a municipality from exercising extraterritorial planning, zoning and plat approval powers within any adjacent charter towns. Also, the bill creates a new hybrid municipality at a time when Wisconsin already has an excessive number of local governments.

Moreover, we fear the next changes that towns will likely seek if this more modest bill becomes law and the concept of charter towns is established in the statutes. Undoubtedly, the next step will be to add language exempting charter towns from annexation by neighboring cities and villages.

For the above reasons, we believe the substitute amendment to SB 36 is bad public policy and should be rejected. Thanks for considering our comments on this legislation.



## TOWN of TROY

654 Glover Road, Hudson, WI 54016  
Phone: (715) 425-2665 Fax: (715) 425-2551

January 24, 2008

Committee on Rural Affairs  
State Capitol  
Madison, WI 53707

Honorable Chair Nerison and Representatives Serving on the Committee of Rural Affairs,

My Jan Cuccia and I represent the Town of Troy, located in St. Croix County, Wisconsin. I speak today in strong support of Substitute Amendment #1 to Assembly Bill 79, The Charter Towns Bill.

Our Town Board strongly supports this charter town legislation. We believe that it will offer us a viable option in securing the land management vision we have for our Town.

The Town of Troy is one of the fastest growing communities in Wisconsin, with one of the most innovative sub-division ordinances and land conservation programs in the state. Our sub-division ordinance fosters cluster development and the preservation of open space, which is encumbered by conservation easements. We also utilize the transfer of development rights to preserve local farmland. We have a working land preservation program that is entirely funded by development. There are no public dollars being used and we will set aside thousands of acres during the course of this program that will be green space forever.

Unfortunately, we are also a Town bordered by two Cities, River Falls and Hudson. Historically our relationship with Hudson has been fairly amiable, but fairly contentious with River Falls. To resolve this conflict the Town worked collaboratively with representatives from the City of River Falls for five years (at a cost of over \$40,000) to develop a cooperative boundary

agreement (CBA). However, after five years of collaborative effort the City Council rejected the agreement that was negotiated. We are again in the process of trying to work with the City, but only time will tell whether this renewed effort proves fruitful.

In the meantime the City of River Falls has imposed a subdivision density of one lot per every 35 acres within the city's extraterritorial plat approval jurisdiction. This has significantly impacted our growth management planning and the value of large tracts of land within the Town.

**The Charter Towns Bills, if enacted as proposed, would give our town options desperately needed.**

- It would allow us to take steps to become a Charter Town, which would then, exempt us from the extraterritorial zoning powers of the cities we border; this would greatly benefit the Town of Troy and would allow us to continue to follow our growth management plan; it would also enhance our ability to negotiate a cooperative boundary agreement.
- It would allow us to take steps to withdraw from county zoning; our town has a vision and goal of developing an Comprehensive Zoning Ordinance that allows us to effectively manage future growth, without County oversight.

We believe that Charter Town legislation is a positive step for us and many other progressive communities. If the State of Wisconsin really wants to preserve farmland, create conservancy areas and foster high-quality communities like Troy, we need new options like the Charter Towns Bill.

Again, we urged your support of Substitute Amendment #1 to Assembly Bill 79, The Charter Towns Bill.

Thank you for your time.

*Sam Luccia* 1/24/08  
SUPERVISOR #3  
TOWN OF TROY

SUBSTITUTE AMENDMENT #1 TO AB 79

INTRODUCTION

GOOD AFTERNOON. I'M SHARON LEAIR, TOWN CHAIRMAN IN THE TOWN OF GENESEE IN WAUKESHA COUNTY. I'VE BEEN ON THE TOWN BOARD SINCE 1981 AND TOWN CHAIRMAN SINCE 1993. I'M CURRENTLY WAUKESHA COUNTY UNIT CHAIRMAN OF THE WISCONSIN TOWNS ASSOCIATION. I CAME HERE TO SPEAK IN FAVOR OF AMENDMENT #1 TO AB 79.

I MADE THE TRIP TO MADISON TODAY BECAUSE I SINCERELY FEEL THAT THIS LEGISLATION IS A REASONABLE AND IMPORTANT PIECE OF LEGISLATION, ONE THAT WOULD HELP PLACE TOWN TAXPAYERS ON A MORE LEVEL PLAYING FIELD WITH OTHER MUNICIPALITIES. WHILE IT DOESN'T OFFER THE PROTECTION FROM ANNEXATION THAT THE ORIGINAL BILL DID, I BELIEVE THAT IT HAS THE POTENTIAL TO BRING SOME IMPORTANT DECISION MAKING PROCESSES BACK TO THE TOWNS AND TO THE LOCAL GOVERNMENT OFFICIALS WHO HAVE BEEN ELECTED BY THEIR COMMUNITIES TO MAKE THOSE DECISIONS. IN OTHER WORDS, I'M TALKING ABOUT LOCAL CONTROL AND MORE EFFICIENT GOVERNMENT.

ANTIQUATED TOWN LEGISLATION, MUCH OF IT ORIGINALLY WRITTEN IN THE 1800'S DOES NOT SUIT WHAT I CALL "TOWNS IN THE REAL WORLD" OF TODAY. GENESEE HAS ITS OWN SEAT OF GOVERNMENT, A TOWN HALL OPEN FULL TIME, A POPULATION OF JUST OVER 7500, WITH AN EQUALIZED VALUE APPROACHING 1 BILLION, 80 MILES OF ROADS TO MAINTAIN, A FULL TIME CLERK, AN ADMINISTRATOR/PLANNER AND A SUPPORT STAFF. WE OWN A JOINT FIRE DEPARTMENT WITH THE VILLAGE OF WALES. WE OFFER OUR RESIDENTS MANY OF THE SAME SERVICES PROVIDED BY CITIES AND VILLAGES. WE HAVE OVER 130 ACRES OF WELL MAINTAINED PARKS ENJOYED BY OUR RESIDENTS. OUR TOWN HAS GROWN AND DEVELOPED CONSIDERABLY IN THE LAST TWO DECADES. TO THE BENEFIT OF OUR TAXPAYERS, WE HAVE NEGOTIATED BOUNDARY AGREEMENTS WITH TWO OF THE VILLAGES BORDERING OUR TOWN. WE CONTRACT FOR LEGAL AND ENGINEERING SERVICES. WE REALLY FEEL THAT WE SERVE OUR RESIDENTS WELL.

SUBSTITUTE AMENDMENT NO. 1 TO AB 79 WOULD ALLOW A TOWN WHO MEETS CERTAIN CRITERIA TO BECOME A CHARTER TOWN THROUGH A TOWN REFERENDUM. THE PEOPLE OF THE COMMUNITY DECIDE. IT WOULD REQUIRE THE COUNTIES TO INCORPORATE A TOWN'S APPROVED LAND USE PLAN WITHOUT REVISION, JUST AS THEY CURRENTLY DO WITH VILLAGE AND CITY LAND USE PLANS. THE AMENDMENT WOULD ALSO PROVIDE THAT A CHARTER TOWN COULD CONTROL ITS OWN LAND USE

THROUGH ITS OWN ZONING ORDINANCE (WITH THE EXCEPTION OF SHORELAND ZONING) AND BY RESOLUTION COULD WITHDRAW FROM COUNTY ZONING. THIS WOULD BE AN ADVANTAGE TO THE TOWN OF GENESEE, SINCE WE ARE ONE OF THE FOUR TOWNS OUT OF TWELVE IN WAUKESHA COUNTY WHO ARE STILL UNDER THE COUNTY CODE ADOPTED IN THE 1950'S. FOR MOST APPROVALS UNDER THE COUNTY ZONING CODE, GENESEE RESIDENTS AND BUSINESS OWNERS NEED APPROVALS FROM BOTH THE COUNTY AND THE TOWN. THIS TWO TIER APPROVAL PROCESS ADDS ADDITIONAL COST AND FRUSTRATION FOR SERVICES WHICH COULD EASILY BE PROVIDED AT THE LOCAL LEVEL. THERE IS EVERY GOOD REASON TO BELIEVE THAT PASSAGE OF THIS LEGISLATION WOULD STREAMLINE GOVERNMENT IN THIS RESPECT, IN THAT WE WOULD HAVE OUR OWN ZONING CODE, JUST LIKE THE OTHER EIGHT TOWNS IN THE COUNTY AND APPROVAL AT THE LOCAL LEVEL WOULD BE ALL THAT IS REQUIRED IN INSTANCES THAT NOW REQUIRE ADDITIONAL TRIPS AND UNNECESSARY EXPENSE TO OUR RESIDENTS AND BUSINESS OWNERS.

IN ADDITION TO BEING ABLE TO WITHDRAW FROM COUNTY ZONING AND ESTABLISH ITS OWN ZONING CODE, A TOWN THAT QUALIFIES AS A CHARTER TOWN WOULD ALSO BE EXEMPT FROM EXTRATERRITORIAL POWERS OF A CITY OR VILLAGE. THIS IS PARTICULARLY IMPORTANT TO GENESEE BECAUSE EVEN THOUGH WE HAVE NEGOTIATED TWO BORDER AGREEMENTS WITH BOTH VILLAGES WHICH BORDER OUR TOWN, THE TOWN OF GENESEE MAY IN THE FUTURE BE UNDER THREAT OF ANNEXATION AND EXTRATERRITORIAL POWERS FROM A CITY WHICH IS JUST A FEW ACRES AWAY FROM OUR BORDER, A CITY NOT KNOWN FOR COMING TO THE TABLE FOR ANY MEANINGFUL BORDER AGREEMENT DISCUSSIONS WITH ITS NEIGHBORS. ALSO UNDER THIS LEGISLATION, TOWNS WOULD HAVE THE SAME OPTION TO CREATE A TIF DISTRICT, JUST AS A CITY OR VILLAGE DOES. ALL OF THESE WOULD BE AN ADVANTAGE. OUR RESIDENTS DO NOT SHARE EQUAL RIGHTS WITH CITIES AND VILLAGES IN THESE RESPECTS AND OUR TAXPAYERS DESERVE THE SAME PROTECTIONS, TREATMENT AND CONSIDERATION AS THOSE OF OTHER MUNICIPALITIES. THIS IS REALLY ABOUT EQUAL RIGHTS AND FAIRNESS TO ALL OF OUR STATE'S RESIDENTS. IT'S NOT 1850 ANYMORE. IT IS REALLY TIME IN WISCONSIN HISTORY TO ALLOW GENESEE AND ALL OTHER TOWNS WHO WOULD QUALIFY TO BE CHARTER TOWNS, TO EXERCISE THE SAME RIGHTS AFFORDED TO RESIDENTS OF OTHER COMMUNITIES AND TO GIVE US A REAL PLACE AT THE TABLE IN REPRESENTING OUR TAXPAYERS. THOSE OF US WHO WISH TO BECOME CHARTER TOWNS HAVE PROFESSIONAL STAFF AND EXPERT ADVISORS AT OUR DISPOSAL. YOU'LL FIND THAT IF THIS LEGISLATION IS PASSED, THE WORLD WON'T STOP TURNING. YOU WILL BE GIVING THOSE TOWNS WHO QUALIFY TO BECOME CHARTER TOWNS THE TOOLS TO MANAGE THEIR COMMUNITIES IN A MORE EFFICIENT MANNER THAN EVER BEFORE. THIS WILL NOT BE A DETRIMENT, BUT AN ASSET TO LOCAL GOVERNMENT IN THE STATE OF WISCONSIN. WE ASK FOR YOUR SUPPORT OF THIS VERY IMPORTANT AMENDMENT. THANK YOU.



**WRITTEN TESTIMONY ON ASSEMBLY BILL AB79,  
THE CHARTER TOWNS BILL  
JANUARY 24, 2007**

**Jeff Musche, Clerk/Administrator  
Town of Lisbon, Waukesha County**

I wish to thank members of the Assembly Rural Affairs Committee for holding a hearing on the Charter Towns Bill. I have worked in the public sector for twenty years, eleven years in the mayor's office in the City of Milwaukee when Henry Maier was mayor and nine years now as the Clerk/Administrator for the Town of Lisbon in Waukesha County. I do not exaggerate when I say the Charter Towns Bill is the most important legislation to towns abutting urban areas in Wisconsin. Not only because it recognizes that town governments are capable of providing services to our residents in a professional and efficient manner; not only because it levels the playing field between towns and our village and city neighbors which will lead to increased cooperation, trust and sharing among local governments; but most importantly because it will streamline the process for development and spur economic development and growth in Towns. A little background about Lisbon is in order. We are located in northern Waukesha County, have a population approaching 10,000 and are surrounded by seven incorporated municipalities.

I submit this testimony in support of the Charter Towns Bill and Substitute Amendment #1.

The Charter Towns Bill promotes intergovernmental cooperation. This is accomplished by eliminating extra territorial zoning and giving towns the ability to sit down with a village or city and jointly determine how a specific parcel should be developed. Currently, villages and cities have no incentive to talk with towns about growth and development because they currently have complete decision making control. As a result, towns are compelled to challenge annexations in court as the only way for town residents to have any voice in development. This is expensive, confrontational and leads to an environment of distrust and lack of cooperation between towns and their incorporated neighbors.

The Charter Towns Bill will enable urban towns to provide meaningful long range planning. Under current law, even if a town prepares a comprehensive plan which meets Wisconsin's Smart Growth requirements, a neighboring village or city is not bound by that plan. In fact, the city or village can ignore the town plan and the wishes of the residents that approved the plan. A contrary plan can be submitted to the county and the county is bound by that city or village plan. This legislation remedies that situation and the potential waste the thousands of dollars a town must spend to create its plan in the first place.

The Charter Towns Bill gives control of the Town's growth to the people who live there. Many people move into a town because of its unique appearance and amenities, and the bill helps these residents insure that development is not contrary to the lifestyle they desire.

The Charter Towns Bill enhances development and economic growth. Leveling the playing field between towns, villages and cities provides incentives for cooperative efforts in planning and development decisions. This bill will also reduce the approval process developers must now go through. In Lisbon, a developer must get approvals from the Town Plan Commission, an abutting city or village Plan Commission and the Waukesha County Park and Planning Department staff and, in some cases, the County Plan Commission. The process typically takes upwards of a year. In eliminating this duplicative review, approvals and economic development will be enhanced. Further, allowing Towns to use Tax Incremental Financing will also act to spur economic development.

For all these reasons, I urge that the Charter Towns Bill be adopted and I thank the Committee members for this opportunity to submit this testimony.